

## **Abstract - Mediation in civil matters**

The purpose of the thesis is detailed analysis of mediation as the type of alternative dispute resolution, its basic principles and elements, all in confrontation with Czech legal enactment of mediation and in connection with other legislation. The thesis should provide an overview of implanting the mediation into the legal system of Czech Republic, interconnection with concerned branches of law, especially with Civil Procedural Law. The reflections of the author are focused especially on the question, if the recent legislative regulation of mediation in Czech Republic helps to establish mediation as the standard and demanded type of dispute resolution in the eyes of both professional and laic public, there are also the reasoning on the alternative variants of legal regulation of mediation and reflections *de lege ferenda* contained.

The first chapter presents the ADR as the set of procedures different from court proceedings determined to dispute settlement, among which the mediation belongs too. The purpose of this part of the thesis was especially comparison of the mediation with other types of alternative dispute resolution, particularly the arbitration.

The next chapter defines mediation itself, with the special emphasis on the analysis of legislative definition of the mediation.

The third chapter is focused on the basic pillars of mediation – voluntariness, privacy and the role of the mediator. The legal regulation of mediation *de lege lata*, especially the Mediation Act and related amendments of the Civil Code, and possible adjustments of the legal regulation *de lege ferenda*, is also examined from the perspective of the basic principles of mediation.

The chapter number five looks at the development in both the Czech Republic and the European Union, leading to the adoption of the Mediation Act in 2012. The chapter also includes the analysis of the wording of the Mediation Act, alternatives to some of its provisions that have been considered and controversy with some disputed issues. One of the subchapters includes also the summary of the most important activities related to the mediation after the adoption of Mediation Act.

The extensive part of the thesis – sixth chapter – deals with the mediation process. The entering to the mediation according to Civil Code and Code on Special Court Proceedings and also the entering to the mediation without connection to court proceedings, validity of mediation clauses from the point of view of Civil Substantive Law and Civil Procedural Law is analyzed in this chapter. The particular aspects of the mediation process are overviewed from the wider

legislative context, the controversial moments (eg. caucus or the enforceability of the mediation agreement) are analyzed both *de lege lata* and *de lege ferenda*. Also the mediation contract and the mediation agreement are closely analyzed in this chapter.

The last chapter is comparative and offers the description of the functioning of mediation in Great Britain and the consideration of the author about possible inspiration by the approach of Great Britain to the mediation.